

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAWN ZANDER,

Plaintiff,

V.

NEW HAMPSHIRE INDEMNITY COMPANY,

Defendant.

Case No. C05-5154FDB

ORDER DENYING RECONSIDERATION

By Order entered January 19, 2006, the Court granted Defendant's motion for partial summary judgment on the bad faith claims related to the uninsured motorist and collision claims. Plaintiff settled her van damage claim following the parties' negotiations, and the settlement amount has been paid. Plaintiff Zander moved for reconsideration stating that she submitted a claim for property damage, made claims under her personal injury protection coverage, and that she notified her insurance carrier of a potential under-insured motorist claim. Zander contends that an assertion of bad faith is a separate and distinct claim from the underlying incident and Zander asserts that she did submit a claim for under-insured motorist benefits.

Zander's motion lacks merit, and she submits no evidence or argument that she could not reasonably have submitted earlier. Her Complaint cites the investigation of her insurance claim, the

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1 dispute over the value of her claim, the timing of the payments as the basis for her breach of contract
2 and bad faith claim. Zander settled her claim. "Absent an express reservation of rights, such a
3 settlement constitutes a complete accord and satisfaction of all claims." *Oregon Mutual Insurance*
4 *Company v. Barton*, 109 Wn. App. 405, 414, 36 P.3d 1065, 1069 (2001). There was no reservation
5 of her right to assert her bad faith claim. There is no clear and convincing evidence that the parties
6 intended to preserve the bad faith claim and leave it out of the settlement. Notwithstanding,
7 Zander's declaration stating "[o]riginally, I believed that the third-party limits were insufficient and
8 that I may potentially need to file a UIM claim" This submission does not demonstrate that such a
9 claim was made. Zander submits to admissible evidence that a UIM claim was made.

10 ACCORDINGLY,

11 IT IS ORDERED: Plaintiff's Motion for Reconsideration of Order for Partial Summary
12 Judgment [Dkt. # 42] is DENIED.

13 DATED this 28th day of March, 2006.

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16 FRANKLIN D. BURGESS
17 UNITED STATES DISTRICT JUDGE
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